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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,909	11/30/2000	Robert Denton Silfvast	P514	3696
24739	7590	10/17/2007		
CENTRAL COAST PATENT AGENCY, INC 3 HANGAR WAY SUITE D WATSONVILLE, CA 95076			EXAMINER MEI, XU	
			ART UNIT	PAPER NUMBER
			2615	
			MAIL DATE	DELIVERY MODE
			10/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/727,909

Applicant(s)

SILFVAST ET AL

Examiner

Xu Mei

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 41-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This communication is responsive to the applicant's amendment dated 07/25/2007.
2. Applicant's arguments, see Remarks, filed 07/25/2007, with respect to the rejection(s) of claim(s) 41-44 under Faecher have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Runton et al (US-6,865,430, hereafter, Runton).

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 43-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Runton.

Regarding claim 43, Runton discloses an audio processing system having a method for amending an audio stream (see Figs. 1-2), comprising the steps of:  
connecting by a computer appliance to an Internet site storing audio-effects software

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application; downloading at least one audio-effects software application; transmitting the at least one audio-effects software application to an audio processing unit enabled to receive an input audio stream and produce an output audio stream from the input audio stream by executing the audio-effects software application; and producing an output audio stream altered from the input audio stream by executing the audio-effects software application transmitted thereto. The claimed audio-effects software application is signal processing apparatus/software 10 that is enabled to alter an input audio stream (digital audio in 11) to produce an output audio stream (digital audio out) by executing the audio-effects software application as shown in Fig. 1. The audio-effects software application or signal processing software 10 is stored (inherently) at an Internet site that is capable of being download to a personal computer (col. 5, lines 56-65).

Regarding claim 44, the claimed multiple audio-effects software applications downloaded from one or more Internet sites to be available for transmission to a user is met by the disclosure of Runton that one distribution system (Internet site) is to provide adjustments within the software (audio-effects software application) for varying sound effect on the input audio stream/signal, and also having different presets for various adjustments in copies of signal processing apparatus/software 10 (see col. 5, line 66-col. 6, line 34).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Runton.

Regarding claim 41, Runton disclosed the audio processing system as discussed in claim 43 above. What's not specific taught by Runton is the substitution of a second audio-effects software application for a first audio-effects software application for altering the input audio stream as claimed. However, as discussed above, Runton disclosed that the Internet site also providing various adjustments within the software or audio-effects software application for varying the effect on the input audio stream/signal and also including different presets for various adjustments in copies of signal processing software, i.e., a second audio-effects software applications as claimed (see col. 5, line 66-col. 6, line 34). To utilizes or replaces different copy of audio-effects software with different or specific presets to alter the input audio stream in order to achieve desired and optimal audio effect on the input audio stream by selecting or choosing a desired copy of the audio-effects software application would have been obvious to one of ordinary skill in the art with the teaching of Runton.

Claims 42 is rejected for the same reasoning as set forth in claim 44.

### ***Conclusion***

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

White et al, Yuen et al, and Kawashima are made of record here as pertinent art to the claimed invention. White et al, Yuen et al, and Kawashima disclose different systems for digital audio control and processing including audio effect software application downloading through Internet.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xu Mei whose telephone number is 571-272-7523. The examiner can normally be reached on maxi flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Xu Mei/  
Xu Mei  
Primary Examiner  
Art Unit 2615  
10/12/2007